

1 A "Given the late hour, I have not yet read the
2 report but I wanted to rush it to you, given that Adams
3 principal is expected to be in town tomorrow."

4 Q And the report that it refers to, that's the
5 appraisal that was done?

6 A It's evaluation report.

7 Q That was the evaluation report of WTVE?

8 A Correct.

9 Q Why was it important that you rush this to Ms.
10 Gaulke, rush the appraisal report to Ms. Gaulke that
11 evening?

12 A I don't have an independent recollection of it.
13 I'm guessing that we'd been waiting for over a month for
14 this, everyone was anxious to see what it said, and I'm not
15 sure I'd given it to Adams yet. I was given it to Gaulke
16 first. It was quite lengthy. I might have had it
17 hand-delivered to Mr. Cole's office the next day if his
18 principal was going to be in town. If he was going to be in
19 town, I'm guessing to meet with Mr. Cole, they might have
20 wanted to discuss it. I needed to get it to her. I wanted
21 her to see it before I distributed it.

22 Q Who's the Adams principal that you're referring
23 to?

24 A I'm guessing it's Mr. Gilbert, but I don't know
25 for sure.

1 Q How did you come by the information that Adams's
2 principal was expected to be in town on June 3rd?

3 A I'm guessing that I could have only gotten that
4 from Mr. Cole, but I don't know. It could have come to me
5 from Telemundo. I just, I don't remember where I got it.

6 Q The town referred to here is Washington?

7 A I, that's what makes sense. I'm guessing it's
8 Washington, yes. Again, I don't have an independent
9 recollection of writing this. I certainly don't remember a
10 meeting being scheduled or our trying to have one.

11 Q You prepared this on or about June 2nd?

12 A I prepared it on June 2nd, and I don't remember
13 what time of the day. Maybe if you look at Pecaro's
14 evaluation it has a telecopy trailer on it if it came to me.
15 I don't have any recollection of when or whether it was the
16 beginning of the day, end of the day.

17 Q Thank you.

18 MR. SOUTHARD: Your Honor, I move Exhibit 62 into
19 the record.

20 THE COURT: Any objection?

21 MR. COLE: No objection, Your Honor.

22 THE COURT: There being none, Exhibit 62, the
23 one-page fax transmittal, dated June 2, 1999 is received
24 into evidence.

25 (The document referred to,

1 having been previously marked
2 for identification as Reading
3 Exhibit No. 62 was received in
4 evidence.)

5 BY MR. SOUTHARD:

6 Q Ms. Swanson, could I have you please take a look
7 at your billing records. It's Exhibit 50, page seven, the
8 record for June 7th, 1999.

9 A I'm on Exhibit 50, page seven. Which date?

10 Q June 7, 1999.

11 A I see it.

12 Q Okay. The first entry here indicates a telephone
13 conference with "H. Cole re appraisal and settlement." Do
14 you see that?.

15 A I see that.

16 Q And the second entry indicates a telephone
17 conference with "H. Gilbert re same."

18 A I see that.

19 Q Were those two separate telephone conferences?

20 A Probably, but I don't have, I'd have to look at my
21 notes. I don't have an independent recollection. Usually
22 if it's with two people, I'll kind of write it that way, but
23 I does have a recollection.

24 Q Okay. Why don't you take a look at Exhibit 52,
25 which are your notes, at page 10.

1 A I'm on Exhibit 52, page 10.

2 Q Would you identify those for us please.

3 A It's a copy of my handwritten notes. It looks
4 like from June 7th.

5 Q Are these notes of a telephone conference you had
6 with Mr. Gilbert and Mr. Cole?

7 A It says, "H. Gilbert and H. Cole" up at the top,
8 so I was probably speaking to both of them at the same time.

9 Q Do you recall whether you initiated that call?

10 A No, I don't recall.

11 Q Did anyone else besides you, Mr. Gilbert and Mr.
12 Cole participate in that call?

13 A What I can't tell from this is whether Anne Gaulke
14 was on the call or not. I have a reference to her at the
15 top. Either she has "nothing knew to" -- it should be n-e-w
16 -- either she has "nothing new to report," and I'm conveying
17 that to them or she's saying she has nothing new to report.
18 I just, I don't know.

19 Q It's possible Ms. Gaulke may have participated?

20 MR. HAYS: Objection to the form. Anything's
21 possible, Your Honor. I mean it doesn't say anything. It
22 doesn't --

23 THE COURT: Well, we understand how we're getting
24 the answers here. I'm going to allow the question.

25 BY MR. SOUTHARD:

1 Q Ms. Swanson, I believe you already answered --

2 A Could you repeat the question please?

3 Q Is it possible -- I'm not sure. Is it possible
4 that Ms. Gaulke participated in this call with Mr. Gilbert
5 and Mr. Cole and yourself?

6 A Anything's possible. I can't tell from the these
7 notes whether she did or not.

8 THE COURT: You got your answer.

9 BY MR. SOUTHARD:

10 Q Could you, I'm sorry, could you please read the
11 first sentence here. It says, "Gaulke," and I don't know
12 what the rest of the sentence says.

13 A That's my symbol for nothing.

14 Q Um-hum.

15 A A zero with a slash through it. And then, "Gaulke
16 - nothing knew" -- it should be n-e-w, not k-n-e-w -- "to
17 report." "Gaulke - nothing new to report."

18 Q Okay. That's what you said before. What's this
19 second line then?

20 A I think it's "Cole: How want to proceed."

21 Q What does that mean?

22 A If I recollect correctly, and again, it's a
23 stretch here, this is four days after we've gotten the
24 appraisal. I don't think anybody's gotten word back from
25 Reading Broadcasting that they even want to pay for a third

1 of the appraisal. Everybody knows the settlement will only
2 work if there's three parties, kind of up in the air, what
3 do we do now, since we, I don't even know if Reading had
4 gotten new counsel at this point. There was this continuing
5 problem of who to talk to at Reading, is there anybody to
6 talk to, how are we going to proceed, if we're even going to
7 explore this without knowing who to talk to or what to do,
8 given kind of the nonresponsiveness, just what do we do.

9 Q So at least in part, the subject of this
10 conversation was where to go with respect to settlement.

11 A I think it was a general do we do anything from
12 here kind of call. Actually, I see farther down that Parker
13 is still looking to retain FCC counsel.

14 Q What's the significance of that?

15 A Well, it's kind of hard to discuss a three-way
16 settlement or to even begin to do it when one party isn't
17 represented or doesn't have counsel, and I get the sense
18 there was a couple different individuals at Reading. Nobody
19 knew who to talk to or what to do.

20 Q Okay. I believe this ties in. The reference here
21 looks to say, "Need" -- it's about halfway down -- "Need to
22 be sure that all three" -- I'm sorry, I can't read the rest.

23 A I think mine says, "Want to negotiate." Nobody
24 wanted a settlement unless it terminated the proceeding.
25 All three people had, all three, or all two, the two

1 applicants and a participant paid with conceivably some kind
2 of white knight.

3 Q Ms. Swanson, if you could take a look at the next
4 page here. Exhibit 52, page 11. Is this a continuation of
5 your notes from that same conference call?

6 A I believe so.

7 Q How far down this page do those notes from that
8 call continue?

9 A I'm guessing again, I'm not positive, completely
10 positive, but I think it's where the line comes, one, two,
11 three, four, five, six, seven, eight, nine lines up from the
12 bottom there's a horiz -- a diagonal line going from the
13 left margin into the space to the right of the vertical line
14 on the paper.

15 Q Um-hum. If you could -- I'm sorry, just to
16 backtrack a little bit. If you could take a look at page 10
17 again or Exhibit 52. And below the line that you read
18 earlier, "Needed to be sure," it say, "MAS." Could you read
19 that please?

20 A "MAS - Parker won't talk until believe" -- until,
21 it should just be one until -- until, basically he believes
22 Telemundo has settled with Adams.

23 Q What does that mean?

24 A I think it was my sense from the early
25 conversations with his previous counsel and also the

1 negotiating pattern I'd seen him follow in reformulating the
2 affiliation agreement, that he really didn't come in at the
3 beginning of discussions. He would wait until the last
4 minute until he thought everything else was wrapped up, and
5 then he'd want to come in and talk. But I wasn't real
6 hopeful, given his patter, that he would want to come in
7 until he thought Telemundo had already reached a deal with
8 Adams, if one was going to be reached.

9 Q If you could turn again to page 11 of Exhibit 52.

10 A I'm on page 11.

11 Q The fifth line -- oh, I'm sorry, the sixth line
12 down. "Gilbert - " and then there's a quote there. Could
13 you read that please.

14 A "Gilbert - 'serious negotiation.'"

15 Q What does that mean?

16 A To the best of my recollection, he's saying he
17 doesn't want to do this, he doesn't want his time wasted
18 unless this is really going to be a serious negotiation
19 instead of fussing around, but, that if we're going to, you
20 know, if you're going to do it, do it.

21 Q Could you read the line immediately below that?

22 A "If" -- oh, "agreed" -- I think it's "agreed
23 valuation seemed fair - CP probs" -- problems.

24 Q What does that refer to?

25 A Again, I don't have any recollection of what he

1 said, but reading this, he's agreeing that whatever was in
2 that appraisal seemed fair. And I don't know whether he's
3 saying it mentioned the construction permit extension
4 problems Reading Broadcasting was encountering, or given
5 those, I don't know what the, or if he's just saying they
6 have these problems with getting their CP extended. I don't
7 know.

8 Q What was the outcome of this conference call?

9 A Certainly nothing happened. I mean I don't
10 remember immediately right afterwards, I mean, it never led
11 to anything, never led to negotiations, never led to a
12 meeting. I mean I'd have to say nothing.

13 Q At this point, had you given up on the possibility
14 of a white knight settlement, or was that still something
15 that you were pursuing?

16 A I wasn't picking up any enthusiasm from anybody
17 for it. From Adams, from Parker, from Reading Broadcasting.
18 I mean it was something that kind of wasn't going anywhere.

19 Q The last line here of what you've indicated was
20 part of your notes of the telephone conference shows,
21 appears to indicate Howard Gilbert's telephone number
22 direct. Is that correct?.

23 A Correct.

24 Q And then his, is that secretary?

25 A "Secy" is usually what I write for secretary. And

1 then it's got --

2 Q Can you read that, is that a name there at the
3 end?

4 A Maybe Michelle. I don't know. "S-k-a-r-e-h?" --
5 or, I don't know, I mean I never, I don't know what his
6 secretary's name was. I wrote it down at the time, but I
7 don't remember ever having contact with her or talking to
8 her or needing to use the information.

9 Q That's Mr. Gilbert's secretary?

10 A Well, it's got the same basic phone number. It
11 looks like his, I'm guessing that's his switchboard, so it
12 must be his secretary.

13 Q Did you ask for this information?

14 A I don't remember.

15 Q I still have never set up contact lists on my
16 Microsoft Outlook, and so I'm really, even when I don't need
17 it, I'll frequently say to people, you know, I'm not sure
18 how well my records are before you sign off, and you'll see
19 phone numbers written all through my notes, because I,
20 that's kind of how I just keep them.

21 Q Did you expect that you'd be calling Mr. Gilbert
22 again?

23 A I don't recall having an expectation for doing
24 that. I mean you'll see Anne Gaulke's phone number later
25 down at the bottom, and I called, I was calling her a lot.

1 Q Okay. If you could take a look at Exhibit 63
2 please. Reading Exhibit 63. Appears to be a letter from
3 you to Ms. Gaulke, dated July 14th, 1999. Do you have that
4 in front of you?

5 (The document referred to was
6 marked for identification as
7 Reading Exhibit No. 63.)

8 A I have it in front of me.

9 Q Did you compose this letter?

10 A Either I composed it or I revised a draft that an
11 associate did. I don't remember which it was.

12 Q Why did you send this information to Ms. Gaulke?

13 A Because she'd asked us to send somebody to the
14 prehearing conference.

15 Q Why.

16 A Because Telemundo, having initiated this idea of a
17 white knight, having been somewhat enthusiastic about it at
18 the beginning, was still, at this point, interested in
19 seeing what happened in the renewal proceeding. I think I
20 asked her. I said a date, you know, this hearing's coming
21 up, do you want to pay to have somebody cover it? And I
22 think she said yes, that we had somebody cover it and we
23 sent her a letter or a report afterwards.

24 MR. SOUTHARD: Your Honor, we would move Exhibit
25 63 into evidence.

1 THE COURT: Well, let's first get it marked for
2 identification as Reading Exhibit Number 63. Are there any
3 objections to it coming in? Hearing no objection, Exhibit
4 63 is now in evidence.

5 (The document referred to,
6 having been previously marked
7 for identification as
8 Reading Exhibit No. 63 was
9 received in evidence.)

10 BY MR. SOUTHARD:

11 Q If you could turn back to your notes. This is
12 Exhibit 52, page 12. Do you have that in front of you?

13 A I have it in front of me.

14 Q What are these notes of?

15 A Reading Exhibit 52, page 12 appears to be notes I
16 took on July 14th, and I'm guessing it's a couple different
17 phone calls, notes of a couple different phone calls.

18 Q There's a reference here, it looks like to Howard
19 Gilbert. Does that indicate a telephone discussion that you
20 had with Mr. Gilbert?

21 A I'm guessing it did. The way I've set up these
22 notes. I don't have an independent recollection of talking
23 to him on July 14th. These could either be all notes from
24 talking to Harry Cole, at the top maybe. I don't think
25 they're notes from talking to Tom Hutton. It looks to me

1 like it's, I think, probably three different phone calls and
2 leaving a message.

3 Q Okay. What is this line right after Mr. Gilbert's
4 name?

5 A "Howard Gilbert - interested in Telemundo" -- I
6 think it's "Aff" -- affiliation.

7 Q What's an affiliation entail?

8 A What does an affiliation entail? A network
9 affiliation?

10 Q Yes. Is part of that providing --

11 MR. SHOOK: Your Honor, objection. This is all
12 very interesting, but we're just not getting anywhere with
13 this.

14 THE COURT: What? You mean like the affiliation
15 question?

16 MR. SHOOK: Yes. I mean where are we going with
17 this?

18 THE COURT: You want to tell us where we're going
19 with this?

20 MR. SOUTHARD: Well, Your Honor, Mr. Gilbert has
21 testified that he's never had any discussions with anyone,
22 including Telemundo, concerning providing programming, and
23 my understanding of an affiliation is that you'd be
24 providing programming. And that's where I'm trying to go.

25 THE COURT: Well, I'll let you ask the one

1 question on that, but we're not going to continue on this
2 line. I think Mr. Shook's got a good point.

3 BY MR. SOUTHARD:

4 Q Does part of an affiliation, a network
5 affiliation, encompass providing programming to the
6 affiliate?

7 A Yes.

8 MR. SOUTHARD: Your Honor, if I may be allowed one
9 more?

10 THE COURT: One more.

11 BY MR. SOUTHARD:

12 Q Was Mr. Gilbert's interest in a Telemundo
13 affiliation an interest in having Telemundo provide
14 programming?

15 MR. COLE: Objection. Asking the witness to
16 speculate as to what Mr. Gilbert's interest or intent was.

17 THE COURT: Well, she may have been, you know,
18 that may come out in the course of their discussions back
19 and forth. I'm going to overrule the objection. I'm
20 allowing this one last question.

21 THE WITNESS: I don't know, but it might have come
22 up in the context of a settlement, in terms of valuation.
23 Nobody wants to settle without any idea, kind of, as to
24 what's going to be going on, whether they're getting a fair
25 settlement, if there's not a programming source. I have no

1 idea why he was asking about it, but I'm guessing maybe it
2 had to do with making sure a settlement was fair.

3 Q I'd like to refer you to Exhibit 50, page 10.
4 That's your billing entry for July 15, 1999. Do you see
5 that?

6 A Exhibit 50, page 10, July 15th. I see my billing
7 entry.

8 MR. SOUTHARD: I'm sorry, Your Honor. I didn't
9 have this in my notes, but this appears to get back into the
10 affiliation issue.

11 THE COURT: Well, let's stay out of that.

12 BY MR. SOUTHARD:

13 Q Ms. Swanson, if I could do you think Exhibit 52.
14 Those are your notes, page 13.

15 A I'm on Exhibit 52, page 13.

16 Q What are these notes of?

17 A These appear to be notes from a telephone
18 conversation on July 27th with Harry Cole.

19 Q Again, I'm sorry, does that -- okay, the reference
20 here to "Okay to call Howard directly." Do you see that?

21 A I see that.

22 Q Had you requested to speak to Mr. Gilbert
23 directly?

24 A I don't have any independent recollection of this
25 phone call, no less asking to call Mr. Gilbert or whether

1 Harry Cole volunteered that I could call him directly.

2 Q If you could turn the page to Reading Exhibit 52,
3 page 14.

4 A I'm on Exhibit 52, page 14.

5 Q And what are these?

6 A These are phone notes from July 15th. They appear
7 to be with Howard Gilbert.

8 Q Could you read that first, the first line under
9 the telephone number?

10 A "Knows we" represent -- "rep" -- represent
11 "Telemundo - interested in continuity."

12 Q What does that mean?

13 A I'm guessing that, I'm really not sure what it
14 means. If it has anything to do with Telemundo, maybe it's
15 continuity in the provision of Telemundo services, but
16 again, I'm guessing as to what it involved. In the event
17 they win the hearing? In the event they settle the hearing?
18 It the, I just, I don't know.

19 Q As of July 15, 1999, Telemundo was providing the
20 programming to WTVE?

21 A I believe Telemundo was.

22 Q The last, the third line from the bottom on this
23 page seems to say "Bob Hage wants to meet in NYC." Is that,
24 did I read that right?

25 A Right.

1 Q Who's Bob Hage?

2 A I had no idea till I was -- or maybe I did at the
3 time. I had no recollection until I was preparing for this.
4 I think maybe he's an Adams principal, another shareholder
5 in Adams.

6 Q Do you know what he wanted to meet in New York
7 about?

8 A As I go through the notes, it seems to be to meet
9 with Telemundo. He makes reference to another person,
10 Wayne, I don't even, somebody who was a former president of
11 J. Walter Thomson -- I don't know his last name --
12 apparently talked to Telemundo, maybe about Chicago, I
13 think. I'm not quite sure. It says, "If we win" -- and
14 you've got, this means 85 to 90% chance of winning the
15 hearing. "Interested in Telemundo relationship if we win.
16 He wanted to tell me this. Bob Hage would like to meet in
17 New York City or Howard meet with them." I guess it's a
18 meeting with Telemundo about what happens in terms of
19 getting programming to the station.

20 Q If you could take a look at your time entries
21 again. It's Exhibit 50, page 10.

22 A I'm on Exhibit 50, page 10.

23 Q The time entry for July 16, 1999. Do you see
24 that?

25 A I see it.

1 Q Would you read that for us please.

2 A "Telephone conferences H. Cole and A. Gaulke."
3 For the 16th?

4 Q Yes.

5 A "Telephone conferences for H. Cole and A. Gaulke
6 re Adams interest in affiliation and settlement."

7 Q Was this a, do you recall, one conversation that
8 you had with Mr. Cole and Ms. Gaulke on the line together?

9 A I'm sorry, I don't recall.

10 MR. SOUTHARD: Your Honor, given your ruling with
11 respect to questioning on affiliation of, we've previously,
12 I've got an Exhibit here I'll mark for identification, it's
13 Reading Exhibit 64. It's a Telemundo fax cover sheet. We
14 are not going to move it into evidence. Simply wanted to
15 try to keep the Exhibit Numbers consistent.

16 (The document referred to was
17 marked for identification as
18 Reading Exhibit No. 64.)

19 THE COURT: I'm just looking at the Exhibit to be
20 sure that I'm ready to do this. All right. Why don't we
21 have it marked and then move on. This is RBI Exhibit, or
22 Reading Exhibit Number 64 for identification, and it's a
23 one-page fax cover sheet. It speaks for itself. That's
24 going to just be identified. It will not be moved into
25 evidence. I just have a curiosity about Alan Sokol. I know

1 you testified you weren't sure of his position, but can you
2 characterize him as either being senior or junior to Ms.
3 Gaulke?

4 THE WITNESS: He's either on the same level with
5 her laterally or senior to her. I know he's not junior. I
6 didn't talk to him at all during that period, so I don't
7 know.

8 THE COURT: All right.

9 BY MR. SOUTHARD:

10 Q Ms. Swanson, if I could ask you to take a look at
11 Exhibit 54, and it's your daytimer for July, and turn to
12 page four of the Exhibit.

13 A I'm on Exhibit 54, page two.

14 Q Page four please.

15 A I'm sorry. I'm on Exhibit 54, page four.

16 Q On the left hand side about two-thirds of the way
17 down, it appears to say "- .1 T/C H Gilbert re settlement."
18 Did I read that correctly?

19 A No. I think that's ".1 TCH Cole" C-o-l-e "re
20 settlement." But I could be wrong. I can't tell.

21 Q Does that indicate then a telephone conference
22 that you had with Mr. Cole concerning settlement?

23 A All I can tell you for sure is it's six minutes
24 and it's a telephone conference about settlement, and I
25 would have thought it was Cole. I can't exactly tell

1 whether it's Gilbert or Cole.

2 Q It's either H. Gilbert or H. Cole?

3 A Well, I, looking at it, I thought it was Cole. I
4 never even thought of Gilbert till you mentioned that it
5 might be Gilbert.

6 Q If I could ask you please to take a look at
7 Exhibit 50, page 11. That's your billing records.

8 A I'm on 50, page 11.

9 Q The time entry for July 29, 1999. Do you see
10 that?

11 A My entry for July 29, 1999. I see that.

12 MR. SOUTHARD: And Your Honor, I apologize for
13 going into the affiliation issue, but I just wanted to get
14 her read on this, because it was somewhat confusing.

15 THE COURT: Is this the first entry on the page?
16 Because there are two entries.

17 MR. SOUTHARD: No it's the second entry on the
18 page.

19 THE COURT: The second entry?

20 MR. SOUTHARD: It says, "Review affiliation with
21 Adams affiliation issue."

22 THE COURT: All right. I'll permit it for
23 clarification purposes.

24 MR. SOUTHARD: Thank you.

25 BY MR. SOUTHARD:

1 Q What does this entry mean?

2 A Well, it means I spent six minutes reviewing the
3 affiliation question as it might pertain to Adams. I can
4 guess, based on the entry above and the entry below, is
5 Telemundo had concern, given the fact that I think they felt
6 Mr. Parker was fairly litigious, whether they should even
7 talk to anybody about an affiliation agreement, and we had
8 an associate research it and we ended up deciding not to
9 talk to anybody about an affiliation agreement at all. So
10 there were never any discussions about what would happen to
11 the affiliation until the hearing was over. I mean we just
12 didn't have any. It didn't go anywhere.

13 Q Okay. If I could ask you to take a look at --

14 MR. SOUTHARD: We've got it marked as Exhibit 67,
15 I've skipped over a couple of exhibits, Your Honor, that I
16 don't intend to introduce. How do you want to deal with the
17 numbering?

18 THE COURT: Well, let's stay with the numbering
19 that you have.

20 MR. SOUTHARD: Okay. Then I've got two exhibits
21 here, Exhibit 65 and 66, which I don't intend to introduce.

22 THE COURT: All right. We'll just leave them. We
23 won't even identify them. We'll just leave them in the
24 document book, but it's not going to get used in the
25 findings. 65, 66, so now you only need 67?

1 MR. SOUTHARD: 67, yes.

2 (The document referred to was
3 marked for identification as
4 Reading Exhibit No. 67.)

5 BY MR. SOUTHARD:

6 Q Ms. Swanson, do you have the Exhibit in front of
7 you?

8 A I have Reading Exhibit 67 in front of me.

9 Q This appears to be a letter from you to Ms.
10 Gaulke, dated September 15, 1999. Is that correct?

11 A It's a letter that I signed to Anne Gaulke, dated
12 September 15th, 1999.

13 Q Could I ask you please to read the entirety of the
14 last paragraph on page two. The last paragraph of the
15 letter.

16 THE COURT: Do you want her to read it to herself
17 or into the record?

18 MR. SOUTHARD: Your Honor, I'm rethinking how I
19 want to do this. If I could have just a moment?

20 THE COURT: Yes. Let's go off the record.

21 (There was a brief recess.)

22 THE COURT: We're back on the record.

23 MR. SOUTHARD: Let me try to do it this way. The
24 subsequent pages, three through 19 of the Exhibit.

25 THE COURT: This is of 67.

1 MR. SOUTHARD: 67. That's correct, Your Honor.

2 THE WITNESS: Three through what pages?

3 MR. SOUTHARD: Three through 19.

4 BY MR. SOUTHARD:

5 Q And my question is only, are these the enclosures
6 that this letter, are these the documents that were enclosed
7 in this letter of September 15th?

8 A The best I can do for you is read the letter and
9 look at these enclosures and tell you if I think they might
10 fit. I, off the top of my head haven't a clue. Do you want
11 me to --

12 Q Could you do that please?

13 THE COURT: Let's go off the record.

14 (There was a brief recess.)

15 THE COURT: There is an objection that was first
16 noted by Mr. Shook. Certainly joined in by Mr. Hayes and
17 Mr. Cole with respect to the relevance of this line of
18 questioning, starting with the September 15th letter, and
19 your position, Mr. Southard, with respect to its relating
20 back to when Adams filed the application, that's really
21 where the focus of this is.

22 MR. SOUTHARD: The relevance of the September 15th
23 discussions, evidence, is probative of Adams ongoing
24 interest in culminating this suit with settlement.

25 THE COURT: Well, the question that Mr. Shook is

1 bothered by is how does it relate back to the 1994 files.
2 It was 1994 they filed, wasn't it?

3 MR. SHOOK: Yes, Your Honor.

4 THE COURT: How does it relate back to that,
5 because it's the intention, we're interested in knowing what
6 Adams's intentions were when they filed its application.

7 MR. SOUTHARD: I believe the answer to that is in,
8 and I hope I'm referring to the right case -- there's the
9 *Garden State* case -- where the subsequent settlement
10 discussions were probative of the intent at the beginning.

11 THE COURT: Well, we didn't have as much passage
12 of time in that case.

13 MR. SOUTHARD: Which would go to weight rather
14 than --

15 THE COURT: Let me ask. Wait just a second now,
16 because I'm trying to, I'm going, I'm still when you on
17 this. There was a significant hiatus, wasn't there, Mr.
18 Shook, when the Bechtel (phonetic) decision came down and
19 everything got put on hold?

20 MR. SHOOK: The Bechtel (phonetic) decision, I
21 believe, came out even before the Adams people filed their
22 application, and the Bechtel decision was first, and most
23 significantly, important with respect to new comparative
24 applications, as opposed to a comparative renewal situation.
25 Now, as a consequence of Bechtel, I can throw out for

1 everybody's consideration that in all likelihood it had a
2 significant impact on the Bureau's delay in designating this
3 proceeding for a hearing. But, at the same time, it
4 wasn't, you know, directly related, in the sense that we
5 have a comparative renewal proceeding here, and Bechtel
6 wasn't focused on comparative renewal situations.

7 Well, but it certainly impacted on him, though.

8 MR. SHOOK: Yes, it did. Big time.

9 MR. SHOOK: Yes, it did. It's not the -- Your
10 Honor, it's not just the passage of time that concerns me
11 here. I was willing to listen up to a certain point to see
12 whether that's been going on here today can tie into Adams's
13 behavior or Adams's actions or Adams's statements. Anything
14 that Adams has done. I've heard a fair amount about what
15 Telemundo has done, about what Ms. Swanson has done on
16 behalf of Telemundo. I've heard precious little how this
17 relates to anything Adams has done. And I'm sorry, I guess
18 I'm just losing my patience, and that's why I'm objecting at
19 this point. I could have objected five documents earlier.
20 The same objection. There is nothing here.

21 MR. SOUTHARD: It's certainly not my intention to
22 strain Mr. Shook's patience. I have two exhibits and I'm
23 done. And in fact I don't have any more questions if we can
24 agree to their authenticity and move them into evidence.

25 THE COURT: All right. Let's see what you can do

1 in the next 10, 15 minutes, Mr. Shook.

2 MR. SOUTHARD: Well --

3 THE COURT: I mean he's got a good point, but on
4 the other hand, I think that, you know, you've gone down
5 this road this far, let's see if we can finish it up.

6 MR. SOUTHARD: Well, let me start by moving in
7 Exhibit 67 into evidence.

8 THE COURT: It's a 23-page document. Is there any
9 objection to receiving it into evidence?

10 MR. SHOOK: Yes.

11 THE COURT: On relevance?

12 MR. SHOOK: Yes.

13 THE COURT: All right.

14 MR. SOUTHARD: Your Honor, based on the last
15 discussion we had, we believe it's probative. I mean if
16 Your Honor doesn't want to give it much weight, it certainly
17 is probative.

18 THE COURT: All right. For what it's worth, as
19 weight is concerned, I'll allow it to come in. I'll
20 overrule the objection. I didn't hear from Mr. Cole. I
21 assume you're going to make the same objection, but you may
22 have another one.

23 MR. COLE: Yes, Your Honor, we certainly do make
24 the same objection, and I echo Mr. Shook's sentiments,
25 although I previously argued about relevance before and have

1 not gotten very far. So I'm trying to keep to a low profile
2 on the theory that things will move faster if I keep my
3 mouth shut, because I don't think it's going to help or hurt
4 record one way or the other. I just don't think it moves
5 the ball anywhere closer to the designated issue.

6 The September 15 letter makes no reference
7 whatsoever, as far as I can see, to anything which suggested
8 that this letter came into possession of Adams or that Adams
9 even knew about this letter. And I, you know, it seems to
10 me it has nothing to do with Adams's state of mind in 1999
11 or in 1994. So that's, but I think I'm just restating Mr.
12 Shook's objection, so --

13 THE COURT: Well, the burden of proof has been
14 placed -- the burden of proof and proceeding has been placed
15 on Reading, and in the interests of moving this case
16 forward, for whatever it's worth as far as weight goes, I'm
17 going to receive it into evidence.

18 (The document referred to,
19 having been previously marked
20 for identification as Reading
21 Exhibit No. 67 was received in
22 evidence.)

23 MR. SOUTHARD: Thank you, Your Honor. And the
24 last document we have here is Exhibit 68.

25 (The document referred to was

1 marked for identification as
2 Reading Exhibit No. 68.)

3 BY MR. SOUTHARD:

4 Q Ms. Swanson, if you could take a look at that
5 please. It appears to be a fax cover sheet from you to Ms.
6 Gaulke, and it bears your initials. Is that correct?

7 A That's correct.

8 Q And I believe you testified earlier that your
9 initials on a fax cover sheet indicate that you read it?

10 A Um-hum. I must have read at the time.

11 Q Okay. And your, in the message here you're
12 providing Ms. Gaulke with the contact information for Howard
13 Gilbert. Is that correct?

14 A Providing her the street address at his law firm.

15 Q Did Ms. Gaulke ask you for that information?

16 A She must have asked me for it. I can go back and
17 look in notes and see if I have any indication that she did.
18 I have no independent recollection that she asked for it.

19 Q That's all right. Your Honor, I move Exhibit 68.

20 MR. COLE: Objection. Relevance. This document
21 simply transmits from counsel to a client an address. It
22 doesn't say why the address is being transmitted. There's
23 absolutely nothing in this document which indicates it has
24 anything to do with settlement. And the witness has not
25 been able to tie it to settlement, as far as I've been able

1 to tell from the examination.

2 THE COURT: It is -- I'm assuming I'm going to get
3 the same, if not stronger arguments from Mr. Shook.

4 MR. SHOOK: I'll happily ditto.

5 THE COURT: You'll happily ditto. Well, I will,
6 I'm going to sustain the objection on this one. It's just,
7 it's too cursory, and it's just passing along a telephone
8 number and --

9 MR. SOUTHARD: Your Honor, actually, if I may be
10 heard on this?

11 THE COURT: Sure.

12 MR. SOUTHARD: This fax was sent, if you look at
13 the next page, was sent at 4:30. It's 15 minutes after the
14 telephone record indicates that Ms. Swanson spoke to Mr.
15 Gilbert, which is approximately four hours, a little less
16 than four hours after Exhibit 67, which discusses, which
17 references settlement and where Ms. Swanson encourages Ms.
18 Gaulke to move promptly to resolve any impediments that may
19 remain to putting forth a serious settlement offer.

20 MR. COLE: Excuse me, Your Honor.

21 MR. SOUTHARD: I believe they are all tied
22 together.

23 MR. COLE: Before Mr. Southard begins to testify
24 and interpret the records, I would ask him to show us where
25 in any of these documents there is any evidence that Ms.

1 Swanson in fact talked to Mr. Gilbert on September 15, 1999.

2 MR. SOUTHARD: Take a look at page -- Your Honor,
3 do you want me to address that?

4 THE COURT: Yes.

5 MR. SOUTHARD: Reading Exhibit 51, page one.

6 THE COURT: 51, page one.

7 MR. COLE: Yes?

8 MR. SOUTHARD: Is a telephone record for September
9 15, 1999.

10 MR. COLE: For 1.6 minutes --

11 MR. SOUTHARD: Yes.

12 MR. COLE: Which is not reflected in any billing
13 records from Ms. Swanson.

14 MR. SOUTHARD: Yes? And your point?

15 MR. COLE: My point is, Your Honor --

16 MR. SACKS: You asked me --

17 THE COURT: Wait, let him finish.

18 MR. COLE: My point is, Your Honor, there is no
19 evidence that Ms. Swanson in fact spoke with Mr. Gilbert.
20 We've heard extensive testimony from Ms. Swanson that she
21 leaves messages, as is customary in most business
22 situations. We've also had lots of testimony that when she
23 does have conversations with people, she makes records of
24 them for her billing, for her bills. And then they show up
25 in her bills.

1 We're not finding a billing record here. We're
2 not finding any notes about conversations. As far as I
3 understand, Ms. Swanson has not indicated in any testimony
4 she spoke with him. We have a 1.6-minute phone call, which
5 in my experience, is very possibly the amount of time that
6 it takes to hear an answering machine message and leave a
7 phone number.

8 THE COURT: Why don't you ask Ms. Swanson a
9 question.

10 BY MR. SOUTHARD:

11 Q Ms. Swanson, if you take a look at Exhibit 51,
12 page one indicates a telephone call from, I believe, that's
13 your extension, to Mr. Gilbert. It's 1.6 minutes. Did you
14 place that phone call to Mr. Gilbert?

15 A Yeah, I dialed the number but, as I recall, I
16 didn't have his address and I was just calling the number to
17 get his address, and I don't think I even spoke to him. It
18 was just to get the address to put in the fax. And that's
19 all the phone call was for. Or I may have even had my
20 secretary call on my extension and get the address.

21 But I didn't, as I recall, because I didn't have
22 him in a contact list, I didn't have a Rolodex card on him,
23 and that's what we did to get the address. But I don't
24 believe I had a conversation with Mr. Gilbert.

25 Q That's fine.

1 MR. SOUTHARD: And immediately thereafter she
2 forwarded the contact information to Ms. Gaulke.

3 THE COURT: All right. The weight is obviously
4 very questionable. It's a one-page document. It's not
5 going to burden the record. In light of what I let in on
6 67, I will permit 68 to come in with the explanation that
7 the witness has given. So I'm going to overrule the
8 objection. Your Exhibit 68 is now in evidence.

9 (The document referred to,
10 having been previously marked
11 for identification as Reading
12 Exhibit No. 68 was received in
13 evidence.)

14 MR. SOUTHARD: We have a final Exhibit 69 we don't
15 intend to introduce just to keep the numbering straight we'd
16 mark it for identification.

17 THE COURT: It will stay in the book, since the
18 book is with the -- and the numbering system is with the
19 reporter. I'm just not going to even identify the document.
20 We'll just leave it there. Is that it?

21 MR. SOUTHARD: That's it for me. I thank
22 everybody for their patience. I recognize it was rather
23 lengthy.

24 THE COURT: Well, there was a lot of organization
25 that you had to go through and the time that you had to do

1 it was not too comfortable. However, the fault for there
2 not being that much time to put it together is certainly not
3 with Dow, Lohnes and is certainly not with Telemundo. Now,
4 do we have any more questions of this witness? Anybody else
5 have any questions?

6 MR. COLE: Yes, Your Honor. I have a few, if I
7 could, and I don't know if Mr. Shook has any.

8 MR. SHOOK: I have none.

9 MR. COLE: You have none. I have a couple, Your
10 Honor.

11 THE COURT: All right.

12 CROSS-EXAMINATION

13 BY MR. COLE:

14 Q Good afternoon, Ms. Swanson. You and I know each
15 other. We'll try to make this mercifully brief. First, do
16 you recall that you and I worked jointly on an FM rulemaking
17 proceeding involving a number of communities in Colorado,
18 Arizona, and possibly other states?

19 A I recall working on an FM allotment proceeding
20 with you that involved principally a station in Nevada, and
21 then stations in Arizona and Colorado, I believe. There
22 were about five, a total of five that had to reconfigure to
23 allow one to upgrade. I mean that's still pending.

24 Q That project had nothing to do with the Reading
25 case. Is that correct?